Our Reference: 10992014-1 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Daniel Lee Briley
Serial Number:	10/086,311
Filing Date:	March 1, 2002
Confirmation No.:	8556
Examiner/Group Art Unit:	Fadey S. Jabr/3628
Title:	POSTAGE EVIDENCE THAT INCLUDES NON-VISIBLE MARKS

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please enter the following Reply Brief in response to the Examiner's Answer dated September 4, 2008.

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I. STATUS OF CLAIMS

Claims 1, 4-11 and 14-20 are the claims on appeal. *See,* Appendix.

Claims 2, 3, 12, 13, and 21-44 were cancelled.

Claims 1, 4-11 and 14-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leon (U.S. Patent No. 6,701,304, referred to hereinafter as "Leon").

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 4-11 and 14-20 are unpatentable under 35 U.S.C. § 103(a) over Leon.

III. ARGUMENTS

A. Rejection of claims 1, 4-11 and 14-20 under 35 U.S.C. § 103(a), as being unpatentable over Leon

Claims 1, 4-11 and 14-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Leon in the Final Office Action dated February 4, 2008.

In the sub-section labeled "First Issue" of the "Response to Argument" section in the Examiner's Answer of September 4, 2008, the Examiner responds to one of the Appellant's arguments set forth in the Appeal Brief filed July 7, 2008. In short, the argument of the Appellant was that although Leon discloses a method for postage label authentication, Leon's system provides only a yes/no status signal that indicates whether the postage is authentic. Appellant argued that Leon does not disclose generating postage information for the particular piece of mail being authenticated other than the yes/no status signal.

The Examiner's Response to the above argument was to state the following:

> Leon discloses if a particular area of the indicia is defined as including a barcode, that area may be designed to include a one-dimensional barcode, a two-dimensional barcode, cryptographic text, or some other elements…In a specific implementation, a list of available elements is formed for the markets targeted for the device. This list can include information such as a postage amount, graphics, time and date of the indicium creation, creation location, and other pertinent information….

In this statement, the Examiner is referring to column 8, lines 62-65 of Leon.

Appellant does not disagree that Leon discloses available elements of indicia information, as referenced by the Examiner. However, that which distinguishes Leon's indicia information (referred to by the Examiner) from the Appellant's invention as defined in the pending claims is that Leon's information pertaining to, for example, postage amount, graphics, etc. is not encoded in indicia. Rather, the indicia information **is** provided to allow the metering device to generate different **human-readable** (i.e., not encoded) indicia for different classes of mail. The barcoded information, unlike the human-readable information referred to by the Examiner, does contain encoded

information. Specifically, the barcoded information relates to the amount of postage paid for the piece of mail. In contrast, the human-readable information, such as the printed postage amount, the time and date the indicia is printed on the postage, the location of the post office, the format of the human-readable-printing, etc., is not encoded in the indicia barcode printed on the mail. Rather, portions of this human-readable information are printed adjacent to the bar code as shown in Leon's Figure 4 (reproduced hereinbelow).

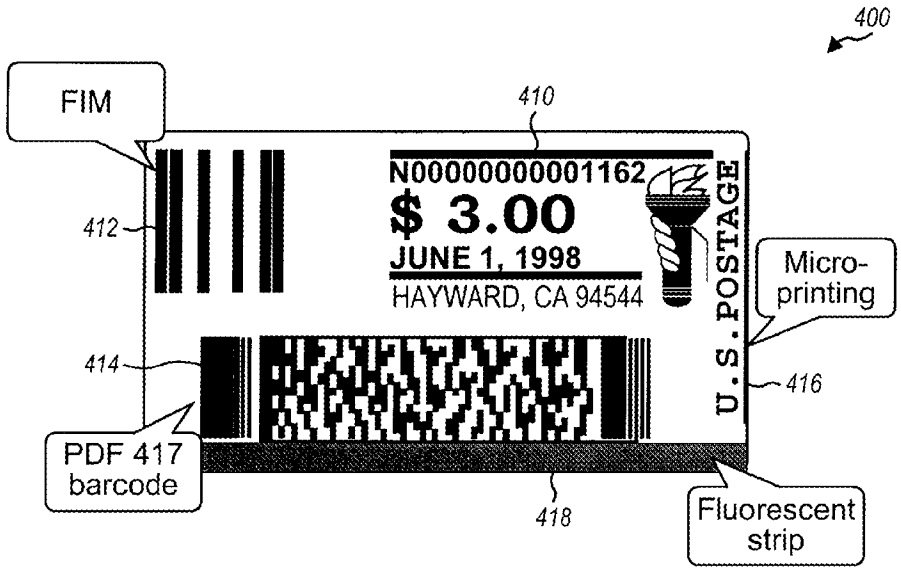

FIG. 4

Fig. 4 of Leon

In column 12, lines 30-65, Leon describes Figure 4 as follows:

FIG. 4 shows an illustration of a specific embodiment of an indicium 400. In an embodiment, indicium 400 is printed on a preprinted postage label and includes a human-readable portion 410, a facing identification mark (FIM) marking 412, and a barcode 414. As shown in FIG. 4, human-readable portion 410 includes the device ID number, the postage amount, the date the indicium was printed, the origination address (e.g., the city, state, and zip code), and the rate category. The destination address (e.g., the destination zip code) can also be printed in the human-readable portion of indicium 400, although this is not shown in FIG. 4.

As shown and discussed in reference to Fig. 4 of Leon, nothing is encoded in the human-readable portion of the printed indicia. In Leon, the human-readable information is not stored or encoded in any printed indicia, but rather is stored in the secure metering device for possible printing directly on the mail as the human-readable portion of the postmark indicia. In other words, Leon's human-readable information is stored in the secure metering device, is then requested by the host PC, as needed, and is printed as the human-readable portion of the indicia on the mail. This is evident from Leon's description from column 8, line 67 to column 9, line 4, which states: "When an indicium is to be generated, the proper template is retrieved based on the (country) information retrieved by the user or the postage system provider. The retrieved template is then 'filled' with relevant information from the element list and from inputs provided by the user. A standard metering device can thus be sold and used in various countries, without special modifications."

Thus Leon has information stored in the secure metering device that is the basis for adapting the human-readable portion of the printed indicia to conditions in the various places where the metering device is sold. This is not the same thing as, nor does it suggest, reading such information from visible and non-visible marks in which such information is stored, as recited in the Appellant's claims.

In contrast, Appellant's disclosure relates to a mail system which comprises both a handling system and a processing system. The processing system is configured to process the visible mark information and the non-visible mark information to generate postage information for the mail piece. Such postage information is used to correctly deliver the mail piece. Therefore, the visible and non-visible marks are the **source** of the information in the Appellant's claims. They are **not the human-readable printed form** of the indicia, as taught in Leon. The information read from the visible marks and non-visible marks in the Appellant's claims is not used to generate specific human-readable printed indicia, rather it is used to generate postage information that is used by the mail system for processing the mail.

Appellant's comment in the Appeal Brief that Leon fails to disclose "generating postage information" was responded to by the Examiner with the comment that Leon generates security information, which is a form of postage information. The security information of Leon is, as previously discussed, in the form of a yes/no signal. Specifically, the yes/no signal is detected or not detected from indicia printed with visible and/or invisible inks, fluorescent and/or non-fluorescent inks, or inks with taggant beads as described in Leon, from column 9, line 14 to column 10, line 19. Such yes/no signals **do not** constitute information in the sense of the information contained in visible marks and non-visible marks of the Appellant's claims, nor do they constitute the human-readable printed information that Leon himself uses to adapt his printed indicia to the conditions of where the metering device is sold. In Leon, such yes/no signals are generated when a certain ink or a certain taggant in the ink is or is not detected. In contrast, the information in the visible and non-visible marks in Appellant's claims is specific information, not just a specific material in the ink. The specific information in Appellant's visible and non-visible marks may include a postage amount, a date, an origination address, a destination address, security information, etc. This specific information is read by Appellant's mail system and is used to process the marked mail.

In summary, Leon discloses the generation of a yes/no signal based on the detection of specific materials in the ink of the printed indicia, but does not disclose reading, by the mail system, from the printed indicia for specific information used for mail processing. Leon also discloses storing specific information in the secure metering device, where such information is the basis for adapting the printed postal indicia to different geographic locations by providing human-readable printed material in addition to the barcodes. Nothing in Leon suggests that such information is stored in the barcodes. Rather, such informatoin is stored in the secure metering device, and is directly printed on the mail. Thus, Leon does not teach or suggest Appellant's instant claims, in which specific information about postal handling is stored in and read from visible and non-visible marks printed on the mail piece.

In the sub-section labeled "Second Issue" of the "Response to Argument" section in the "Examiner's Answer" of September 4, 2008, the Examiner responds to another of the Appellant's arguments set forth in the Appeal Brief filed July 7, 2008, in which the Appellant argued that Leon does not teach or suggest "a processing system coupled to the handling system and configured to process the visible mark information and the non-visible mark information to generate postage information for the mail piece." Appellant acknowledges that the Examiner agrees that the system of Appellant's disclosure should be interpreted as structural limitations. However, in spite of that agreement, the Examiner alleges that the scope of the Appellant's disclosure encompasses the system taught by the Leon reference.

Appellant strongly disagrees with the Examiner on this point. Leon does not teach or suggest a processing system, as set forth in Appellant's claim 1, which is coupled to the handling system and configured to process the visible mark information and the non-visible mark information to generate postage information for the mail piece. Leon also does not teach or suggest the related method, as set forth in Appellant's claim 11, for processing mail evidence on a mail piece. Specifically with regard to the system and the method, the Examiner alleges that Leon teaches the method of the current disclosure and the structural limitations of Appellant's disclosure as evidenced by Figures 1-5 of Leon.

As discussed above, Leon does not teach or suggest Appellant's instant claims, in which specific information about postal handling is stored in and read from visible and non-visible marks printed on the mail piece. This aspect, expressed either structurally or as part of the step of a method, is set out clearly in both independent claims 1 and 11. As set forth in more detail above, Leon discloses that specific information (which is ultimately included as human-readable printed indicia) is stored in the secure metering device itself rather than being encoded in a printed indicia. Also discussed above is how Leon discloses the generation of a yes/no signal based on the detection of specific materials in the ink of the printed indicia, rather than the reading of specific encoded information from the indicia itself. All of the above clearly evidences that Leon neither

teaches nor suggests, in the specification, claims or the Figures (e.g., see discussion of Leon's Figure 4 above), Appellant's invention as recited in any of the currently pending claims. Thus, Appellant submits that claim 1, claims 4-10 (all the claims dependent upon claim 1), claim 11, and claims 14-20 (all the claims dependent upon claim 11), should now be allowed.

CONCLUSION

The Appellant respectfully submits that claims 1, 4-11 and 14-20 as currently pending fully satisfy the requirements of 35 U.S.C. § 103. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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